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Michael Meiresonne

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EXAMINER

NGUYEN, MERILYN P

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/938,163	Applicant(s) MEIRESONNE, MICHAEL	
	Examiner Merilyn P. Nguyen	Art Unit 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/27/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-20 and 22-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-20, 22-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> . |

DETAILED ACTION

1. In response to the communication dated 06/27/2008, claims 1-12, 14-20, and 22-54 are pending in this office action.
2. Application No. 10/421268 filed on April 23, 2003 is a continuation in part of this application.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-3, 19, 22, 24, 36, 49, 51 and 53 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8 and 15 of copending Application No. 10/421,268. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are substantially similar in scope and they use the similar limitations.

Claims 1, 8, and 15 of '268 recite broader version of claim 19 of the instant application.

Claims 1, 8, and 15 of '268 contain(s) every element of claims 1-3, 22, 24, 36, 49, 51 and 53 of the instant application and thus anticipate the claims of the instant application. Claims of the instant application therefore are not patently distinct from the '268 and as such are unpatentable over obvious-type double patenting.

<u>10/421,268</u>	<u>Instant Application</u>
Claims: 8 corresponding to	1+2+3
1,8, 15	19, 22, 24, 36, 49, 51 and 53

5. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6, 8-17, 22-34, 36-46, and 48-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebane (US 6,662,192), in view of Fenton (US 2002/0194151).

Regarding claims 1 and 11, Rebane discloses a method to identify a supplier of goods or services over the Internet comprising:

accessing a home page/index page ("infomediary website", Fig. 17) having at least one link (PDAs link) to a directory Web site (Fig. 18) for a class of goods or services (pdas and pdas

suppliers) having a directory Web site address (Fig. 18) wherein a portion of the directory web site address describes the class of goods or services is inherently taught by Rebane, although Fig. 18 does not show the directory Web site address because it's not really an actual website, however one having ordinary in the art would have been recognized that a portion of the directory web site address describing the PDAs would be shown on the directory address (for reference, example can be see at the link,

http://www.bitzate.com/pda_handheldcomputer/palmone-tungsten-e2-pd-pid304600136/compareprices.html¹);

selecting a class of goods or services having a link to a selected directory Web site corresponding to the selected class of goods or services (See Fig. 17, when user click on PDAs link);

activating the link to a selected directory Web site corresponding to the selected class of goods or services, wherein a portion of the directory Web site address of the selected directory Web site defines the selected class of goods or services (See Fig. 18, the page show ups after user clicks on PDAs link, wherein although Fig. 18 does not show the directory Web site address, it is clearly teach that a portion of the directory web site address describes the class of goods or services as addressed above; and

wherein receiving a display (Fig. 18) of the selected directory Web site, wherein the selected directory Web site contains at least one supplier link (for example, ecost.com) to a corresponding supplier's Web site wherein the corresponding supplier offers the goods or service of the selected class of goods or services ((See page 32, line 57 to page 33, line 67).

¹ The Examiner attaches herein with the Office action an example from bitzate.com and the web site address is taken

Rebane further discloses activate the supplier link thereby launching a first supplier internet browser window and displaying the supplier's Web site or supplier information in the supplier internet browser window (See Fig. 20) and wherein the directory Web site remains displayed in a separate window² and wherein the supplier offers goods or services of the class of goods or services (See Fig. 20 and corresponding text) as per claim 11.

Rebane teaches information about the merchant could also be display or access through associated hyperlinks (See col. 32, lines 17-25); however, Rebane does not explicitly teach a rollover window wherein the rollover window conveys information about a supplier corresponding to the supplier link. On the other hand, Fenton teach a rollover window (See [0109], Fenton et al.). Because Fenton system use to index websites' content, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to incorporate a rollover window into the website of Rebane as suggested by Fenton. Fenton teaches rollover display box 838 describing the content item or provide other information to the user about the content item when the user rolls over the content item (See [0109], lines 4-7, Fenton et al.). Although the rollover display box 838 describes information related to multi-media, one having ordinary skill in the art would have recognized that written description in rollover display box can be a description of the supplier's goods or services; therefore, incorporating the rollover display box into the system of Rebane to display information about the supplier's goods or services, thus is well known and intended use. The motivation would have

directly from there.

² The Examiner attaches herein with the Office action an example from bitzate.com, wherein http://www.bitzate.com/pda_handheldcomputer/palmone-tungsten-e2-pd-pid304600136/compareprices.html having separate window with the supplier's website www.buydig.com.

been providing useful information about suppliers to user so that user can decide whether to make further move.

Regarding claims 2, 3 and 14, Rebane/Fenton discloses the directory Web site further comprises a first paragraph of text comprising a description of the selected of class of goods or services (“Home>Computer Harward&Software>PDAs”, Fig. 18, Rebane) and wherein the selected directory Web site further comprises a descriptive title portion substantially corresponding to the description of the selected class of goods or services described by the directory Web site address (Top BizRater PDA, Fig. 18, Rebane). Rebane/Fenton does not teaches the directory Website address includes a domain name portion wherein the domain name portion of the selected directory Web site defines the selected class of goods or services. However, the difference is only found in the nonfunctional descriptive material and do not alter how the website creating function (i.e., one having ordinary skill in the art would recognized that one can choose a domain name as desired and this nothing to do with how the website is managed). Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to choose a domain name that providing the most beneficial information to the users because choosing the domain name as desired does not alter how the web page is managed and does not patentably distinguish the claimed invention in term of functionality.

Regarding claims 4 and 6, Rebane/Fenton discloses wherein the rollover window does not obscure other content on the directory website (The rollover box of Fenton at Figure 6, reference 636 is displayed when a user rolls over with the mouse cursor one of the listed content items, thus the rollover window/box of Fenton does not obscure other content on the website because it's a floating window and would disappear when move the mouse away) and pre-selecting a supplier link thereby causing the rollover window to display information corresponding to a user selected supplier link as addressed above.

Regarding claims 5, 16, and 17, Rebane/Fenton discloses information about the merchant (supplier) could also be display or access through associated hyperlinks (See col. 32, lines 17-25), however, Rebane/Fenton is silent as to the selected directory Web site further comprises a supplier descriptive portion corresponding to the supplier located adjacent the corresponding supplier link. However, the difference are only found in the nonfunctional descriptive material and do not alter how the website creating function (i.e., one having ordinary skill in the art would recognized that one can build a web site with much information as one's desires). Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add a supplier descriptive portion corresponding to the supplier located adjacent the corresponding supplier link because adding additional information such as supplier descriptive portion to a web page does not alter how the web

page creating functions and because the subjective interpretation of the additional information such as supplier descriptive portion does not patentably distinguish the claimed invention.

Regarding claim 15, Rebane/Fenton discloses wherein the directory Web site further comprises a link to the home page (home, Fig. 18).

Regarding claim 8, Rebane/Fenton discloses activating the supplier link for a supplier of a class of goods or services thereby launching a separate internet browser window and display the supplier Web site corresponding to the activated supplier link in the separate internet browser window (See Fig. 20) ³;

Regarding claims 9-10, Rebane/Fenton discloses wherein the rollover window does not obscure other content on the directory website (The rollover box of Fenton at Figure 6, reference 636 is displayed when a user rolls over with the mouse cursor one of the listed content items, thus the rollover window/box of Fenton does not obscure other content on the website because it's a floating window and would disappear when move the mouse away) conveys information visually/audibly to the user and utilizes a script (See [0039], [0090], Fenton et al.) and further discloses the rollover window is positioned proximate the at least one supplier link; the rollover window displays information about a pre-selected supplier when a user pre-selects a supplier

³ The Examiner attaches herein with the Office action an example from bitzate.com, wherein http://www.bitzate.com/pda_handheldcomputer/palmone-tungsten-e2-pd-pid304600136/compareprices.html having separate window with the supplier's website www.buydig.com.

link; and the rollover window displays information about a second pre-selected supplier when a user pre-selects a second supplier link as addressed above.

Regarding claim 12, Rebane/Fenton discloses selecting a subsequent user determined supplier link for a subsequent supplier of goods or services; and activating the subsequent user determined supplier link to the corresponding user selected subsequent supplier Web site thereby launching a second supplier Internet browser window and displaying the subsequent supplier Web site in the second supplier internet browser window (See Fig. 20, Rebane).

Regarding claim 22, this claim contains all the claimed subject matter as set forth above in claims 1, 3, and 5, thus rejected as the same.

Regarding claim 23, Rebane/Fenton discloses wherein the rollover window utilizes a script (See [0039], [0090], Fenton et al.).

Regarding claims 24-25, 36-37 and 48, these claims contain all the claimed subject matter as set forth above in claims 1, 3, and 6, thus rejected as the same.

Regarding claims 26-27, and 38-39, Rebane/Fenton discloses wherein the directory web site comprises a first set of supplier links and a second set of supplier links (See Fig. 20, Rebane).

Regarding claims 28-29, and 40-41, Rebane/Fenton discloses wherein at least a portion of the first rollover window is visible when at least a portion of the first set of supplier links is visible (See [0090], Fenton et al.).

Regarding claims 30, 33-34, 42, and 45-46, Rebane/Fenton discloses wherein the directory Web site comprises a second rollover window (See [0090], [0109], Fenton et al.).

Regarding claims 31-32 and 43-44, Rebane/Fenton discloses a plurality of directory Web sites (See Fig. 18, Rebane), wherein each directory Web site contains at least one link to at least other directory Web site (See Fig. 18 and 20, Rebane).

Regarding claims 49-53, these claims contain all the claimed subject matter as set forth above in claims 19, and further discloses access a convention search engine; input a search strategy into the conventional search engine to search for a supplier of a user determined good or service; view ranked result links as analyzed by the conventional search engine's algorithm and displayed by the conventional search engine; and activate a ranked result link corresponding to the directory web site corresponding to the user inputted search strategy thereby allowing the user to access the directory web site corresponding to the user inputted search strategy. Please see col. 31, line 62 to col. 32, line 12, Rebane.

Regarding claim 54, Rebane/Fenton discloses wherein the directory Web site further comprises a related directory Web site link to another one of the plurality of directory Web sites (See Figs. 18 and 20, Rebane et al.).

7. Claims 7, 18-21, 35, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebane (US 6,662,192), in view of Fenton (US 2002/0194151), and further in view of Perkes (US 2002/0194601).

Regarding claims 7, 18, 35, and 47, Rebane/Fenton discloses all the claimed subject matter as set forth above, however Rebane/Fenton is silent as to wherein the directory Web site comprises at least one substantially descriptive metatag. On the other hand, Perkes teach descriptive metatag (See [0042], Perkes et al.). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include descriptive metatag into the directory Web site of Rebane/Fenton. The motivation would have been to cover all possible related searches and increase the ranking archived as suggested by Perkes.

Regarding claims 19-20, this claim contains all the claimed subject matter as set forth above thus rejected as the same.

Response to Arguments

8. Applicant's arguments filed on 06/27/2008 have been considered but they are not persuasive.

Applicant argues that the Examiner utilizes a non-prior art recent print of the BizRate.com website to supplement the lack of teaching in Rebane reference. The Examiner respectfully disagrees. The Examiner use it as an extra reference for Applicant to review but not using it as a prior art because the Rebane prior art itself teaches the claimed limitation.

Applicant please takes a moment to look at the Morgenthaler reference (US 2002/0032677) incorporated herein as prior art, especially fig. 16 and fig. 17. The reference describes the superpages.com website. Please browse the <http://www.superpages.com> (The Examiner cites the printouts of pages taken from the superpages web site for better review by Applicant). The superpages homepage (yellow pages) shows different links to directory web sites, for example, user can click at TVs link to go the directory website contains links to the supplier web sites wherein a portion of the directory website address describes the class of goods or service (in this case TV, for example, <http://www.superpages.com/yellowpages/C-TVs/PI-101565/S-AL/T-Birmingham/>). The directory website, <http://www.superpages.com/yellowpages/C-TVs/PI-101565/S-AL/T-Birmingham/> includes a supplier link (for example, ShopBrite.com), a descriptive title portion (for example “Search Results for Birmingham TVs in Birmingham AL”), a supplier descriptive portion located adjacent to the supplier link (for example, “Looking for Hdtv Television Deals? We have them. Compare now”).

Applicant argues that Fenton does not disclose a rollover that does not obscure other content or the Webpage. The Examiner respectfully disagrees. Fenton’s rollover box is the same as the Applicant’s rollover window (Applicant’s specification page 7, lines 15-20). The rollover box of Fenton at Figure 6, reference 636 is displayed when a user rolls over with the

mouse cursor one of the listed content items, one having ordinary skill in the art would have been recognized that rollover window is a floating window and would disappear when the mouse being moved away thus the rollover window/box of Fenton does not obscure other content on the website.

Conclusion

9. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marilyn P Nguyen whose telephone number is 571-272-4026.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Merilyn Nguyen
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